

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12911 OF 2024

Santosh Suresh Shirke & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. S. Khaire a/w Shailesh C., Hrishikesh Avhad for Petitioner.

Ms. A. A. Purav, AGP for the State / Respondent Nos.1 to 5 & 6.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE 12 SEPTEMBER 2024

P.C.

1. We have heard Mr. Khaire, learned counsel for the petitioner and Ms. Purav learned AGP for Respondent Nos. 1 to 5 & 6.
2. This petition under Article 226 of the Constitution is filed praying for the following substantive reliefs:

“a. That this Hon’ble Court may kindly be issued appropriate Writ/ Order/ direction & thereby be pleased to quash and set-aside the impugned Award dated 31/07/2024 passed by the Respected No.2 and thereby be pleased to direct the Respected No.2 to follow due process and thereafter pass award after considering the actual land which will be acquired and proposed to be acquired;

b. That this Hon’ble Court may be pleased to direct the Respected No.1 and 2 to re-measured the said land of the petitioners and therefore file report and the exact land which is proposed to be acquired;

c. That the Respected No.1 and 2 be pleased to be directed to considered the said objections which is filed by the petitioners and which are pending for considering;"

3. The only apprehension of the petitioner is that the respondents are likely to take possession of the land subject matter of acquisition and award dated 31 July 2024 in excess of what was actually sought to be acquired under the award and as earlier notified.

4. In our opinion, as the possession of the land is yet to be taken, the respondents, at the time of taking possession, would certainly measure the land which is exactly the acquired land and as notified so that the apprehension of the petitioner that land in excess of what is being acquired, would also be put to rest. In this regard, all steps in accordance with law are required to be followed by the authorities when the possession of the land is being taken, and more particularly considering the petitioners contentions that there is a standing crop on the land.

5. Be that as it may, we do not intend to delve on these issues. It is for the authority to take proper recourse procedure as known to law and proceed further under the award dated 31 July 2024.

6. We, accordingly, dispose of this petition with the aforesaid limited observations, keeping open all contentions of the parties on any other issues as

may arise in regard to the land acquisition in question and subject matter of the award.

7. Disposed of in the aforesaid terms. No costs.

8. Needless to observe that before taking possession, an adequate notice be issued to the petitioner.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)